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| 08/418,641 | 04/07/95 | SUNDRAM | K 211/032 |

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PADEN, C EXAMINER

ART UNIT

PAPER NUMBER

1302

5

DATE MAILED:

03/14/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/418641

Applicant(s)

K. Sundram

Examiner

Paden

Group Art Unit

1302

☒ Responsive to communication(s) filed on 10-23-95 and 11-13-95

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 & 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the title of the invention, each of the lettered items should be preceded by the headings indicated below.

- (a) Title of the Invention.
- (b) Cross-References to Related Applications (if any).
- (c) Statement as to rights to inventions made under Federally-sponsored research and development (if any).
- (d) Background of the invention.
 - 1. Field of the Invention.
 - 2. Description of the Related Art including information disclosed under 37 C.F.R. §§ 1.97-1.99.
- (e) Summary of the Invention.
- (f) Brief Description of the Drawing.
- (g) Description of the Preferred Embodiment(s).
- (h) Claim(s).
- (i) Abstract of the Disclosure.

The specification contains an Appendix which appears to be a second specification. Cancellation of this Appendix is requested since it does not fit into the above categories. If applicant would like to make this Appendix of record then it should be reported onto an information disclosure statement (PTOL 1449).

Claims 1-29 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 7-9, 23 and 26 it is unclear where the preamble ends and the body of the claims starts. An amendment to the claim indicating a feeding step would clarify this issue and would overcome the rejection. Further it is unclear in the

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claims if the treatment is by mouth or by injection. An amendment clarifying this issue would overcome the rejection.

There is no antecedent basis in claims 15-18 for the recitation "said blended fat".

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-29 are rejected under 35 U.S.C. § 103 as being unpatentable over Baileys.

Baileys discloses the fatty acid composition of peanut oil on page 364. The saturated fatty acid and the linoleic acid content appears to be within that claimed. Peanut oil also contains palmitic acid and oleic acid. Claims 1, 2 and 4-9 appear to differ from Baileys in the recitation of the HDL and cholesterol content of the human serum. It would be obvious to one of ordinary skill in the art to consume the peanut oil of

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Baileys. It is appreciated that the particular HDL and cholesterol content of the human serum is not indicated however to determine these values in human serum after eating peanut oil is seen to be an obvious matter of choice with regard to the particular oil source what is consumed.

Claim 3 refers to lauric and myristic acid while claim 10 refers to a vegetable fat such as palm fat coconut fat and cocoa butter. Baileys teaches on page 315 that coconut oil contains substantial amount of lauric and myristic acid. It would be obvious to one of ordinary skill in the art to blend peanut oil with coconut oil in order to obtain a blend of food oils.

It is appreciated that more than one polyunsaturated fatty acid is not indicated in the mentioned tables however natural fats typically contain more than one polyunsaturated fatty acid. Claim 16 refers to an increase in oxidation resistance however no difference is seen between the oxidation resistance of the reference and that of the claims. Claim 26 refers to a dietary composition however to incorporate the composition of Baileys into a food composition is seen to be an obvious matter of choice with regard to the food product which is desired to be made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Paden whose telephone number is (703) 308-3294. The examiner can normally be reached on Monday-Friday from 8:30 to 5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Esther Kepplinger, can be reached on (703) 308-2339. The fax phone number for this Group is (703) 305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.


CAROLYN PADEN 3-11-96
PRIMARY EXAMINER
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